#### COUNTY OF LOS ANGELES SHERIFF'S DEPARTMENT

A Tradition of Service

DATE: November 4, 2011

FILE NO:

FFICE CORRESPONDENCE

FROM:

JOSÉPH S. HARTSHORNE, COMMANDER TO: JOSEPH B. NUNEZ, CAPTAIN OFFICE OF THE UNDERSHERIFF

INTERNAL AFFAIRS BUREAU

SUBJECT: EXECUTIVE FORCE REVIEW COMMITTEE FINDINGS:

Case Number:

SH2282364

Incident:

Hit Shooting

Incident Date:

February 11, 2011

Unit:

Twin Towers Correctional Facility

Suspect:

Armando Gonzales MH/25

Involved Employees:

Deputy Juan Rodriguez #

EFRC Date:

October 18, 2011

On October 18, 2011, the Executive Force Review Committee consisting of Commander Joseph Hartshorne, Commander Michael Rothans, and Commander Anthony La Berge met and reviewed the above case. The applicable policies that were evaluated were: MPP 3-01/025.00. Use of Force: 3-01/025.30. Use of Firearms and Deadly Force; 3-01/025.10, Unreasonable Force; and 3-01/050.10, Performance to Standards.

#### FINDINGS:

The Committee determined that the force used by Deputy Rodriguez was reasonable, necessary, and in compliance with Department Policy. The Committee also determined that the tactics used by Deputy Rodriguez were sound and reasonable.



# LOS ANGELES COUNTY DISTRICT ATTORNEY'S OFFICE BUREAU OF FRAUD AND CORRUPTION PROSECUTIONS JUSTICE SYSTEM INTEGRITY DIVISION

STEVE COOLEY • District Attorney

JACQUELYN LACEY • Chief Deputy District Attorney

PATRICK R. DIXON • Assistant District Attorney

JANICE L. MAURIZI - Director

September 20, 2012

Captain David Smith Homicide Bureau Los Angeles County Sheriff's Department 5747 Rickenbacker Road Commerce, California 90040

Re:

J.S.I.D. File # 11-0116

L.A.S.D. File # 011-01871-0562-055

Dear Captain Smith,

The Justice System Integrity Division of the Los Angeles County District Attorney's Office has completed its review of the February 11, 2011, non-fatal shooting of Armando Gonzalez by off-duty Los Angeles County Sheriff's Deputy Juan Rodriguez. We have concluded that Deputy Rodriguez acted in lawful self-defense.

The District Attorney's Command Center was notified of the shooting on February 11, 2011, at approximately 4:20 p.m. The District Attorney Response Team (Dart), comprised of Deputy District Attorney Fernando Guzman and District Attorney Senior Investigator responded and was given a briefing of the circumstances of the shooting and a walk-through of the scene.

The following analysis is based on reports prepared by the Los Angeles County Sheriff's Department (LASD), submitted to this office by Sergeant John Fredendall, LASD Homicide Bureau. Deputy Rodriguez provided a voluntary statement to the investigators which was considered as part of this analysis.

#### **FACTUAL ANALYSIS**

On February 11, 2011, at approximately 2:35 p.m., off-duty LASD Deputy Juan Rodriguez was driving his personal vehicle in the number three lane of the eastbound 60 Freeway. A silver Ford Expedition (SUV) driven by Armando Gonzalez pulled up next to him in the number two lane. Gonzalez began lurching his vehicle forward, while making eye contact with Rodriguez. Rodriguez' windows were rolled down as was Gonzalez' front passenger window.

<sup>&</sup>lt;sup>1</sup> Rodriguez believes that the appearance of his Honda Civic prompts others to challenge him to race.

Captain David Smith September 20, 2012 Page 2 of 4

Gonzalez raised both of his hands in the air as if to say "What's up?" Rodriguez raised his hands in the air as if to say "Whatever." Gonzalez began to make more animated and aggressive hand gestures. Gonzalez continued looking at Rodriguez as he appeared to be searching for something in his center console area. Rodriguez believed that Gonzalez was searching for a weapon. Rodriguez "nonchalantly" moved his service weapon from below his driver's seat onto his lap. He was careful to avoid displaying the handgun to Gonzalez and kept it holstered.

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Rodriguez moved ahead of Gonzalez on the freeway but kept watching him in his rearview mirror. Gonzalez appeared to be frantically searching for something in his vehicle as he continually looked at Rodriguez. Although traffic was beginning to slow, Rodriguez began changing lanes and accelerating in order to elude Gonzalez. Gonzalez began changing lanes and accelerating as if he was pursuing Rodriguez.

When Gonzalez was directly behind him, Rodriguez removed his service weapon from the holster. Traffic slowed to approximately 10-15 miles per hour (mph). Gonzalez changed lanes to the left and pulled up next to Rodriguez. Gonzalez made eye contact with Rodriguez and raised his right arm, pointing a black semiautomatic handgun directly at him. After hearing a loud boom or a gunshot, Rodriguez fired four or five rounds at Gonzalez.

Gonzalez stopped on the freeway as Rodriguez continued driving for approximately one half mile. He parked on the right shoulder of the freeway, exited his vehicle and ran to the right front fender, while looking west toward the SUV. He was attempting to call 9-1-1 with his cellular phone when he saw Gonzalez approaching. Gonzalez went from the number two lane, across three lanes of traffic, heading directly for Rodriguez' vehicle.

Rodriguez was holding his gun in both hands, aiming directly at Gonzalez' SUV. Gonzalez had both hands on his steering wheel and was still holding his gun in his right hand. As the SUV was about to strike the Honda, Rodriguez fired one round, shattering the rear window of the SUV. Gonzalez swerved around the Honda and drove past Rodriguez at a high rate of speed. Rodriguez called 9-1-1 and reported the shooting.

#### Witness Statements

was driving behind the SUV and saw it drive toward the Honda. He saw Rodriguez fire one round shattering the SUV's rear window. The SUV continued east on the freeway exiting at the next off-ramp, Peck Road. followed the SUV as it turned westbound on Durfee Avenue and northbound on Santa Anita Avenue, where it came to a stop. watched as Gonzalez was detained by LASD Deputy Serrano.

Deputy Serrano saw that Gonzalez was bleeding from a laceration on his upper right cheek. Serrano called paramedics who arrived and treated Gonzalez. Gonzalez was transported to Los Angeles County Medical Center where Dr. Steven Sanko determined that Gonzalez had a gunshot wound to his face. The bullet lodged in his sinus cavity and caused a brain contusion.

Captain David Smith September 20, 2012 Page 3 of 4

Several witnesses heard a popping sound while driving on the freeway, but did not see the
incident, were together in vehicle when they saw
Rodriguez point his gun toward Gonzalez and fire several rounds. heard four or five
gunshots before she saw Rodriguez fire his weapon. They could not see what Gonzalez was doing.
Several witnesses saw Rodriguez fire at Gonzalez as he stood on the side of the road. Only
saw what Gonzalez was doing at the time of this shooting. Gonzalez was waiving
his arms as if to say "Don't shoot." heard three gunshots. He did not see Gonzalez well
enough to determine his gender. It should be noted that was traveling westbound on the
other side of the freeway at the time of his observations.

#### Further Investigation

Investigators found two semiautomatic handguns hidden in a secret compartment near the center console of Gonzalez' SUV. A 9mm Ruger had nine live rounds in the 15 round capacity magazine. A .40 caliber Glock had one live round in the chamber and seven live rounds in the ten round capacity magazine. A spent casing which matched the rounds in the Glock was found on the front passenger floorboard. There was a bullet hole in the front passenger door of the SUV which was caused by a gun fired from inside the vehicle. DNA from a blood stain on the Glock matched Gonzalez.

On October 3, 2011, Gonzalez was convicted of assault with a semiautomatic firearm. He was sentenced to thirteen years in state prison. This conviction was based upon the facts of this case.

#### CONCLUSION

The use of deadly force in self-defense or in defense of another is justifiable if the person claiming the right actually and reasonably believed (1) that he or the person he was defending was in imminent danger of being killed or suffering great bodily injury, (2) that the immediate use of force was necessary to defend against that danger, and (3) that he used no more force than was reasonably necessary to defend against that danger. CALCRIM No. 505.

The "reasonableness" of a particular use of force must be judged from the perspective of a reasonable officer on scene, rather than with the 20/20 vision of hindsight... The calculus of reasonableness must embody allowance for the fact that police are often forced to make split-second judgments - in circumstances that are tense, uncertain, and rapidly evolving - about the amount of force that is necessary in a particular situation. <u>Graham v. Conner</u>, (1989) 490 U.S. 386, 396-97.

The evidence examined in this investigation shows that off-duty Deputy Rodriguez was being pursued by Gonzalez on a crowded freeway. Gonzalez pointed a loaded firearm at Rodriguez and fired at least one round. This placed Rodriguez and the surrounding drivers in imminent danger of great bodily injury or death. Rodriguez responded with deadly force.

Captain David Smith September 20, 2012 Page 4 of 4

We find that Deputy Rodriguez acted in lawful self-defense. We are therefore closing our file and will take no further action in this matter.

Very truly yours,

STEVE COOLEY District Attorney

FERNANDO GUZMAN

Deputy District Attorney

(213)974-3888

c: Deputy Juan Rodriguez, #

### **Table of Contents**

1AB CASE NO. 1V2282364

#### OFFICER INVOLVED SHOOTING FORM AND INVESTIGATIVE SUMMARY

#### WITNESS INTERVIEWS

Deputy Juan Rodriguez



SUSPECT INTERVIEW

Armando Gonzales

#### **EXHIBITS**

- A Homicide Shooting Book
- B (1) CD containing the crime scene photos and 20 pages containing thumb nail photos from the CD

#### MISCELLANEOUS DOCUMENTS

- Signed admonition for Deputy Rodriguez

# Los Angeles County Sheriff's Department Officer Involved Shooting

Page 1 of 5

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Report Date:	9/6/11		Bureau/Station/Facility:	Twin Towe	rs Correctio	nal Fac	ility Admin. In	vest.?	Hit?
		40.00		Incident Info	rmation			Y	
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Location Type (clrcle one or more Backyard Beach Business Freeway Industrial Park Perking Lot Residence Rural School Street	re):	Dayligi Other Street	Lights (circle only one):	Incident Type ( Accidental Armed Person Fleeling Sus; Foot Pursuit Gun Take At Moving Veh Sniper/Amb Startle Struggle invitations Unarmed Per Unintentions Vehicle Purs	way ide ush olved erson	ore):	Arres Call Obse One Otho Sear Two Prior / Dete	ch Warrant Person Unit Activity (clrcle scrive ate Transport	e only one):
Other: Total # of Shots Fir	ed by Deputy	Total # of	Shots Fired by Suspect	Warrant Ser Warning Sh	vice				
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Employee#	Last N	lame	First	Name	M.L.	ShiftTime EM	(circle only one): PM Day	ShiftType (e Regular	circle only one): Overtime Off Duty
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Employee#	Last Na	тте		Watch Com		rst Name			M.I.

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SH#	2282364		_

### Officer Involved Shooting

URN: 011-1871-0562-055

Page 2 of 5

					Rollout Informatio	n					
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#### FORCE APPLIED (one code per block)

Used By (E# or S#)	Used Against (E# or S#)	Method (Code)	Brand (Code)	Caliber (Code)	Authorized Weapon? (Y/N)	Authorized Ammunition? (Y/N)	Type of Injury (Code)	Body Part (Code)
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E#1	S#1	FH	BR	9	Y	Y	GS	FA
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			-					
				4.5				

## Officer Involved Shooting Involved Employee Information

URN: 011-1871-0562-055

Page 3 of 5 Involved Employee Last Name First Name M.I. Employee # E 1 Rodriguez Juan C Unit Assignment Work Assignment (Unit #, Module, etc.): Rank Sex: Race N/A H Deputy M Twin Towers Correctional Facility ShiftTime (circle only one): ShiftType (circle only one Substance Used: Intoxication/Drug Usage? Regular Overtime Off Duty Day Coroner Case # Hospital Name: Hospital Admission? Coroner Case? Interviewed? Other Factors: At the time of the shooting, Hrs of sleep prior to shooting: Duty Time (hrs) Clothing (circle only one) Raid Jacket w/ Vest 5 hours Plain Clothes no VesD Deputy Rodriguez had not been to patrol. Height: Uniform no Vest Age: Plain Clothes w/ Vest Weight 508 175 Raid Jacket no Vest Uniform w/ Vest PPC Qualification Date Laser Training Date: Range Qualification Date: Codification Unit Number of Prior Shootings Certified with Weapon Used? Patrol Certification? Prior Shootings First Name Mil Field Training Officer Emp # Last Name First Name Field Training Officer Emp # Last Name M.L First Name Employee # Last Name M.L Work Assignment (Unit #, Module, etc.): Sex: Race: Rank Unit Assignment: ShiftTime (circle only che): ShiftType (circle only one): Substance Used: Intoxication/Drug Usage? PM Day Off Duty Regular Overtime Coroner Case # Hospital Name: Hospital Admission? Coroner Case? Interviewed? Other Factors: Hrs of sleep prior to shooting: Duty Time (hrs): Clothing (chele only one) Plain Clothes no Vest Height: Plain Clothes w/ Vest Age: Weight Raid Jacket no Vest Uniform w/ Vest PPC Qualification Date: Laser Training Date: Range Qualification Date: Number of Prior Shootings: Certification Unit: Certified with Weapon Used? Patrol Certification? Prior Shootings? Field Training Officer Emp # Last Name First Name M.L. First Name M.3. Field Training Officer Emp # Last Name First Name M.L Employee # Last Name Race: Rank Unit Assignment: Work Assignment (Unit #, Module, etc.): Substance Used: ShiftType (circle only one): ShiftTime (circle only one): Intoxication/Drug Usage? Regular Overtime Off Duty EM PM Coroner Case # Hospital Name: Interviewed? Hospital Admission? Coroner Case? His of sleep prior to shooting: Duty Time (hrs): Other Factors: Clothing (chale only one): Raid Jacket w/ Ves Plain Clothes no Vest Plain Clothes w/ Vest Uniform no Veel Age: Height: Weight Raid lacket no Vest Unitom w/ Vest PPC Qualification Date: Laser Training Date: Range Qualification Date: Number of Prior Shootings: Certification Unit. Certified with Weapon Used? Patrol Certification? Prior Shootings? Field Training Officer Emp # First Name MI Last Name First Name M.I. Field Training Officer Emp # Last Name

# Officer Involved Shooting Suspect Information

011-1871-0562-055 URN: 4 of 5

Page

		,	uspect l	nformation		
S_1	Last Name Gonzalez			First Name Armano	do	M.I.
	AKA Last Name			First Name	M.I.	
	Sex: M Race: H	Street Address:		City		State & Zip Code:
	Work Phone:	Home Phone;	Social Sec	urity #:	Driver's License #:	
	Age: 25 0.O.B. 05/12/85	Height: 508 Weight: 215	FB!#		CII#	
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	AKA Last Name			First Name		M.I.
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	Work Phone:	Home Phone:	Social Sec	turity #	Driver's License #:	
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# SUPPLEMENTAL NON-EMPLOYEF WITNESSES Los Arteles County Sheriff's Decentment

